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Kahnawà:ke, 5 Ohiari:ha/June 2014

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Prefet de la MRC des Laurentides et Maire de Sainte-Agathe-des-Monts
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RE: Logging activities in proximity to Tioweró:ton

Wa'tkwanonhwera:ton (Greetings),

It has come to our attention that the Government of Quebec ("Quebec"), either through authorizations by the *Ministère des Ressources Naturelles* ("MRN"), the *Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques* ("MDDELCC") and/or the *Ministère des Forêts, de la Faune et des Parcs* ("MFFP") and the *Municipalité Régionale de Comté des Laurentides* ("MRC des Laurentides") have authorized various logging activities in proximity to the Mohawk Territory of Tioweró:ton (or "Doncaster"). The Mohawks of Kahnawà:ke share the Tioweró:ton Territory with the Mohawks of Kanesatake.

Lack of consultation thus far

We have received limited information on some of these authorizations from the Municipality of Sainte Lucie des Laurentides, from our involvement as part of the Coalition for the Preservation of Mt. Kaaikop ("Coalition") and by reading the Superior Court decision rendered in *Ste-Lucie-des-Laurentides (Municipalité de) v. Groupe Crête division Riopel inc.*, 2014 QCCS 238 ("injunction").

To date, no consultation, including information sharing, has occurred with the Mohawks of Kahnawà:ke by the government of Quebec, any of its ministries, any MRC or any private entity.

Rights assertions and reserve land interests

As you are aware, the Mohawks of Kahnawà:ke assert and exercise aboriginal rights on and in proximity to the Tioweró:ton Territory. This includes hunting, fishing, gathering and harvesting rights. The Mohawks of Kahnawà:ke also have “reserve land” interests in the Mohawk Territory of Tioweró:ton.

The Mohawks of Kahnawà:ke have a direct interest in the logging authorizations in the area because of the direct and indirect impacts that logging could have on the exercise of these aboriginal rights and on the integrity of its “reserve lands”.

Potential adverse impacts from logging activities

The Mohawks of Kahnawà:ke have some knowledge of the threats resulting from the planned logging on Management Zone 061-51 that is subject to the injunction, and have some concerns regarding the planned activities in that zone. The Mohawks of Kahnawà:ke also have been made aware of a new threat to this area, namely logging of the TPI 68 (public intra-municipal plot #68) in Sainte-Lucie, next to the Dufresne River, Lake Vaillancourt and Tioweró:ton, where logging activities could start after July 6th, 2015.

These projects could have dramatic negative impacts on the ability to fish, hunt and access water within these areas including within Tioweró:ton. These projects have serious implications to both the terrestrial and aquatic habitats not only within the area to be logged but also in the surrounding areas.

Wildlife Corridor

The existing wildlife corridor provides an important link for numerous wildlife species including moose, bear, cougar and deer as well as plants and forest birds (including Species at Risk) to move between the Reserve Lands of Tioweró:ton, Mont Kaaikop, *Parc National du Mont-Tremblant* and beyond. This linkage is important for the viability of these species within this area as it provides the access to food, shelter and genetic diversity (through interaction with other members of the larger population) required for a healthy population. Many of these species are utilized by the Mohawks of Kahnawà:ke as sources of food and medicine with hunting and gathering popular activities within this area. The corridor itself also contains important wetlands; a key habitat feature for many traditionally important species, including moose.

Water Quality and Quantity

The eastern branch of the North River (Doncaster River) runs through the Territory of Tioweró:ton. The headwaters of this river (and others) are located within the proposed logging area. These logging activities will inevitably impact the water quality and quantity within the region, which could potentially have devastating impacts for the Mohawks of Kahnawà:ke. The presence of Mont Kaaikop and other steep slopes in the proposed logging

area exacerbate these risks and logging in this terrain is contrary to best management practices in forestry management.

From a water quality perspective, probable impacts include increased sediment in the water from erosion and runoff reducing spawning potential and oxygen availability in the water, excess nutrient loading and an increase in water temperature. Water quantity impacts include more extreme variation in flow rates as the hydrologic response increases due to reduced transpiration, reduced infiltration and faster snowmelt. This will lead to an increase in flooding and drought conditions further exacerbating the water quality concerns and infrastructure maintenance costs for Tioweró:ton.

Reductions in water quality and changes in flowrates will also affect the fish in the region as well as Species at Risk such as the Eastern Pearly Mussel (identified in the area in the summer of 2014). These impacts will affect the Mohawks of Kahnawà:ke who currently have access to clean water throughout the Territory and rely on the fish in the area as a source of food.

Statutory and common law obligations that have been breached

Given that the MCK does not possess all of the information pertaining to the various authorizations that are at issue, we are unable to specify, for each authorization which statutory and common law obligations have been breached by Quebec.

However, given that no consultation whatsoever, including basic information sharing, has been undertaken by Quebec regarding any of the various logging authorizations, we can state with certainty that Quebec has breached its statutory and common law duties to consult the Mohawks of Kahnawà:ke regarding these authorizations¹.

For example, one affidavit filed as part of the injunction proceedings, resulting from the planned logging on Management Zone 061-51, indicates that the MRN provided a harvesting permit to Division Riopel on January 16, 2014². The Mohawks of Kahnawà:ke were never consulted in any way regarding this permit issuance. Furthermore, the Mohawks of Kahnawà:ke were never consulted in any way, including basic information sharing, regarding any of consultation processes that took place for the planned logging on Management Zone 061-51 that was conducted by the local integrated land and resource management panel ("TGIRT") in the development of the tactical and operational plans. These meetings took place between 2011 and 2013, and at no time were the Mohawks of Kahnawà:ke invited to participate.

The failure to consult and share information with the Mohawks of Kahnawà:ke regarding logging activities that will have a negative impact on the exercise of aboriginal hunting,

¹ The MCK has become aware that a representative from the Scierie Carriere logging company did contact a Tioweró:ton caretaker from Kahnawà:ke in July 2008, which resulted in an undertaking from the logging company that no logging activities would take place within 500 m of Tioweró:ton Territory. The MCK submits that this informal discussion does not constitute an actual consultation of the Mohawks of Kahnawà:ke, and in any case, is no longer valid and does not apply to the logging activities and authorizations which are planned in and around Tioweró:ton.

² Affidavit of Luc des Roches on behalf of Division Riopel, dated January 16, 2014.

fishing and gathering rights, and that could have a negative impact on the Tioweró:ton reserve land base constitutes a violation of Crown's duty to consult and accommodate.

The failure to consult and share information with the Mohawks of Kahnawà:ke also constitutes a violation of the principles and statutory requirements outlined in the preamble and Sections 1(3), 6, 7, 8, 9 and 10 of the *Quebec Sustainable Forest Development Act* ("Forest Act").

The law clearly indicates that the government of Quebec must consider the rights, interests, values and needs of First Nations whenever logging operations that may impact First Nations are considered. It is our understanding that Quebec has yet to develop a First Nations consultation policy as is required by Section 10 of the *Forest Act*, however, in the absence of such a policy, the Minister must nevertheless conform to the spirit of the law and the requirements of Sections 6, 7 and 8 of the *Forest Act* pertaining to First Nation consultation, accommodation and participation.

It is clear that Quebec has not lived up to the statutory and common law duties to consult and accommodate the Mohawks of Kahnawà:ke with respect to logging activities in close proximity to Tioweró:ton.

MCK consultation and accommodation requirements

The Mohawks of Kahnawà:ke demand an immediate halt to all logging in proximity to Tioweró:ton, including the Mt. Kaaikop corridor. This includes planned logging activities and any logging that may have already commenced pursuant to both provincial and MRC authorizations until such time as appropriate information sharing and consultation with MCK and other stakeholders takes place.

Furthermore, given the significant impacts and potential impacts that are anticipated, the Mohawks of Kahnawà:ke expect that the consultation process will require the implementation of accommodation measures. It is crucial that no logging take place that could permanently or significantly harm the ability of the Mohawks of Kahnawà:ke to exercise aboriginal hunting, fishing and gathering rights on the Tioweró:ton territory. The Mohawks of Kahnawà:ke are also concerned about the preservation of biodiversity and the protection of all vulnerable species.

In addition to the immediate halt to all logging activities, we also require an immediate meeting for initial information sharing so that the government of Quebec and the MRC des Laurentides can clearly outline the scope of all logging authorizations that have been permitted in proximity to Tioweró:ton. The MCK also expects full disclosure of all information, including any and all studies (environmental or otherwise), related to these authorizations.

DO GOVERN YOURSELF ACCORDINGLY



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